

1 tax liabilities owed by the Crihfields for those years is \$326,664.32 as of October 19, 2018, plus
2 statutory interest accruing thereafter. *See* ECF #17, at page 8 (¶ 31) and ECF #20, at ¶¶ 49-55.

3 2. In its July 8, 2019 order, the Court also granted summary judgment regarding the
4 United States' claim that it could foreclose its federal tax liens arising from the IRS assessments
5 made against the Crihfields against two real properties that have been referred to in this matter as
6 the "Hardy" and "Windsong" properties (also referred to below as the "subject properties"). *See*
7 ECF #32.

8 3. The Hardy property is located at 3140 West Hardy Lane, Pahrump, Nevada 89048
9 and also is legally described as follows:

10 Parcel one Hundred Twenty-four (124) of CHARLESTON PARK RANCHOS UNIT
11 NO. 1, recorded September 18, 1959 as File No. 32752 in Book C of Surveys, Page 279,
12 Nye County, Nevada Records.

13 EXCEPTING THEREFROM all of its right, title and interest in and to all of the minerals,
14 including gas, coal, oil and oil shales, as disclosed by Deed recorded December 11, 1959
15 as Document No. 33209 in Book 36, Page 221, Official Records, Nye County, Nevada.

16 Excepting therefrom the mobile home located thereon.

17 Assessor's Parcel Number: 28-682-01.

18 4. The Windsong property is located at 3021 West Windsong Lane, Pahrump,
19 Nevada and also is legally described as follows:

20 Lot Thirty-Three (33) of GOLDEN SPRING RANCH UNIT NO. 1 as shown by map
21 thereof recorded May 20, 1963 as File No. 44480 in the Office of the County Recorder of
22 Nye County, Nevada.

23 Assessor's Parcel Number: 41-402-01.
24

1 5. The United States has valid and subsisting tax liens on all property and rights to
2 property of the Carihfields, including the Hardy and Windsong properties, arising from the
3 assessments described in paragraph 48 of Complaint in this action, which tax liens are effective
4 as of the dates of those assessments. The United States further protected its liens by filing
5 various Notices of Federal Tax Lien in the Nye County, Nevada, Recorder's Office.

6 6. Section 7403 of Title 26 (U.S.C.) entitles the United States to enforce its liens
7 against the Hardy and Windsong properties in order to apply the proceeds towards the federal tax
8 liabilities of the Carihfields.

9 7. The United States' federal tax liens against the Hardy and Windsong properties
10 are hereby foreclosed.

11 8. The United States Marshal for the District of Nevada, his/her representative, or an
12 Internal Revenue Service Property Appraisal and Liquidation Specialist ("PALS") representative
13 is authorized and directed under 28 U.S.C. §§ 2001 and 2002 to offer for public sale and to sell
14 the Hardy and Windsong properties, free and clear of the right, title and interest of all parties to
15 this action and any successors in interest or transferees of those parties. The United States may
16 choose either the United States Marshal or a PALS representative to carry out the sales under this
17 Order of Foreclosure and Judicial Sale and shall make the arrangements for any sales as set forth
18 in this Order.

19 9. This Order of Foreclosure and Judicial Sale shall act as a special writ of execution
20 and no further orders or process from the Court shall be required.

21 10. The United States Marshal for the District of Nevada, his/her representative, or a
22 PALS representative is authorized to have free access to the Hardy and Windsong properties and
23 to take all actions necessary to preserve those properties including, but not limited to, retaining a
24

1 locksmith or other person to change or install locks or other security devices on any part of the
2 properties, until deeds to the subject properties is delivered to the ultimate purchaser(s).

3 11. The terms and conditions of the sales shall be:

- 4 a. Except as otherwise stated herein, the sales of the Hardy and Windsong
5 properties shall be by public auction to the highest bidder, free and clear of
6 all liens and interests.
- 7 b. The sales shall be subject to all laws, ordinances, and governmental
8 regulations (including building and zoning ordinances), affecting the
9 premises, and easements and restrictions of record, if any.
- 10 c. The sales shall be held at the United States District Court for the District
11 of Nevada on the premises of the subject properties, or at any other place
12 in accordance with the provisions of 28 U.S.C. §§ 2001 and 2002, at a date
13 and time announced by the United States Marshal, his/her representative,
14 or a PALS representative.
- 15 d. Notice(s) of the sales shall be published once a week for at least four
16 consecutive weeks before the sales in at least one newspaper regularly
17 issued and of general circulation in Nye County, and, at the discretion of
18 the Marshal, his/her representative, or a PALS representative, by any other
19 notice deemed appropriate. The notice(s) of sales shall contain a
20 description of the subject properties and shall contain the material terms
21 and conditions of sale in this Order of Foreclosure and Judicial Sale.
- 22 e. The sales of the Hardy and Windsong properties is ordered pursuant to 26
23 U.S.C. §§ 7402, 7403 and 28 U.S.C. §§ 2001, 2002. State or local law
24

1 notice requirements for foreclosures or execution sales do not apply to a
2 sale under federal law. Redemption rights under state or local law do not
3 apply to the sales of the subject properties under federal law.

4 f. The minimum bids will be set by the Internal Revenue Service for the
5 sales of the Hardy and Windsong properties. If the minimum bids are not
6 met or exceeded, the Marshal, his or her representative, or a PALS
7 representative may, without further permission of this Court, and under the
8 terms and conditions in this Order of Foreclosure and Judicial Sale, hold
9 new public sales, if necessary, and reduce the minimum bid or sell to the
10 highest bidder.

11 g. The successful bidders for the subject properties shall be required to
12 deposit at the time of sales with the Marshal, his/her representative, or a
13 PALS representative, a minimum of ten percent of the minimum bid with
14 the deposit to be made by cash or a certified or cashier's check payable to
15 the United States District Court for the District of Nevada. Before being
16 permitted to bid at the sales, bidders shall display to the Marshal, his/her
17 representative, or a PALS representative proof that they are able to comply
18 with this requirement. No bids will be received from any person(s) who
19 have not presented proof that, if they are the successful bidder(s), they can
20 make the deposit required by this order.

21 h. The balance of the purchase price(s) for the subject properties is to be paid
22 to the Marshal, his/her representative, or a PALS representative
23 (whichever person is conducting the sales) within thirty (30) days after the
24

1 date the bid is accepted, by a certified or cashier's check payable to the
2 United States District Court for the District of Nevada. If the successful
3 bidder fails to fulfill this requirement, the deposits shall be forfeited and
4 shall be applied to cover the expenses of the sale, including commissions
5 due under 28 U.S.C. § 1921(c), with any amount remaining to be applied
6 to the unpaid federal tax liabilities of the Carihfields covered by the federal
7 tax liens at issue here. The subject properties shall again be offered for
8 sale under the terms and conditions of this Order of Foreclosure and
9 Judicial Sale or, in the alternative, sold to the second highest bidder. The
10 United States may bid as a credit against its judgment without tender of
11 cash.

12 i. The sales of the Hardy and Windsong properties shall be subject to
13 confirmation by this Court. The Marshal, his/her representative, or a
14 PALS representative shall file a report or reports of the sales with this
15 Court within thirty (30) days after the Clerk notifies the United States that
16 the balance of the purchase price has been received into the Court's
17 registry.

18 j. Upon confirmation of the sales, the Marshal, his/her representative, or
19 PALS representative shall promptly execute and deliver deeds of judicial
20 sales conveying the subject properties to the purchaser(s).

21 k. The purchasers shall proceed to have the Nye County Recorder's Office
22 record the transfer of the Hardy and Windsong properties upon that
23 county's register of title. The responsibility for recording the deeds with
24

1 the Nye County Recorder's Office, and the payment of all costs, fees, and
2 taxes of whatever kind related to the recording of such deed, shall be
3 borne exclusively by the purchasers as a term and condition of the sales.

- 4 1. Upon confirmation of the sales, the interests in, liens against, or claims to,
5 the Hardy and Windsong properties that are held or asserted by any and all
6 parties to this action or any successors in interest or transferees of those
7 parties shall be discharged and extinguished.

8 12. Until the Hardy and Windsong properties are sold, the Carihfields, their designee,
9 **and any occupant of the subject properties**, shall take all reasonable steps necessary to
10 preserve the such properties (including all buildings, improvements, fixtures and appurtenances
11 on the properties) in its current condition.

12
13 The Carihfields, their designee, and any occupant of the subject properties
14 shall not commit waste against the same nor cause nor permit anyone else to do so. They shall
15 neither do anything that tends to reduce the value or marketability of the subject properties nor
16 cause nor permit anyone else to do so. They shall not record any instruments, publish any notice,
17 or take any other action (such as running newspaper advertisements or posting signs) that may
18 directly or indirectly tend to adversely affect the value of the subject properties or that may tend
19 to deter or discourage potential bidders from participating in the public auction(s), nor shall they
20 cause or permit anyone else to do so. **Violation of this paragraph shall be deemed a contempt**
21 **of court and punishable as such.**

22 13. All persons occupying the Hardy and Windsong properties shall leave and vacate
23 permanently the properties within thirty (30) days of the date of this Order of Foreclosure and
24

1 Judicial Sale, each taking with them his or her personal property (but leaving all improvements,
2 buildings, fixtures, and appurtenances to the subject properties). If any person fails or refuses to
3 leave and vacate the subject properties by the time specified in this Order, the United States
4 Marshal's Office is authorized to take whatever action it deems appropriate to remove such
5 person or persons from the premises, whether or not the sales of such subject properties are being
6 conducted by a PALS representative. Such action may include, but is not limited to, the use of
7 reasonable force, and to enter and remain on the premises, including, but not limited to, the land,
8 and any structures or vehicles thereon, for the purposes of executing this Order. The United
9 States Marshal is further authorized and directed to arrest and/or evict from the premises any and
10 all persons who obstruct, attempt to obstruct, or interfere or attempt to interfere in any way with
11 the execution of this Order. When the United States Marshal concludes that all unauthorized
12 persons have vacated, or been evicted from the subject properties, he/she shall relinquish
13 possession and custody of the subject properties to the Internal Revenue Service, or its designee.
14 No person shall be permitted to return to the subject properties and/or remain thereon without the
15 express written authorization by the United States Marshal and/or the Internal Revenue Service,
16 and/or the United States Department of Justice, or their respective representatives and/or
17 designees. Unauthorized persons who re-enter the subject properties during the time this Order
18 is in effect may be ejected by the United States Marshal without further order of this Court.

19 14. Notwithstanding the terms of the immediately preceding paragraph, if, after the
20 sales of the Hardy and Windsong properties are confirmed by this Court, the properties remain
21 occupied, a writ of assistance may, without further notice, be issued by the Clerk of Court to the
22 purchaser(s) thereof.
23
24

1 15. If any person fails or refuses to remove his or her personal property from the
2 Hardy and Windsong properties by the time specified herein, the personal property remaining at
3 or on the subject properties thereafter is deemed forfeited and abandoned, and the United States
4 Marshal's Office or the PALS representative is authorized and directed to remove and dispose of
5 it in any manner they see fit, including sale, in which case the proceeds of sale are to be applied
6 first to the expenses of sale, and then to the federal tax liabilities of the Crihfields covered by the
7 federal tax liens at issue here.

8 16. The Marshal, his or her representative, or a PALS representative, shall deposit the
9 amounts paid by the purchaser or purchasers of the subject properties into the registry of the
10 court. Upon appropriate motion for disbursement or stipulation of the parties, the Court will
11 disburse the funds in the following partial order of preference until these expenses and liens are
12 satisfied:

- 13 a. First, to the IRS, for allowed costs and expenses of the sales, including any
14 commissions due under 28 U.S.C. § 1921(c) and including an amount
15 sufficient to cover the costs of any steps taken to secure or maintain the
16 subject properties pending sale and confirmation by the Court;
- 17 b. Second, to Nye County for any and all liens it may have on the subject
18 properties for unpaid real property taxes or special assessments at the time
19 of sales;

1 c. Lastly, to the United States of America to partially satisfy the federal tax
2 liabilities of the Crihfields covered by the federal tax liens at issue here

3 **IT IS SO ORDERED.**

4
5
6 

7
8 ANDREW P. GORDON
9 UNITED STATES DISTRICT JUDGE
10 Dated: July 24, 2019.
11
12
13
14
15
16
17
18
19
20
21
22
23
24